



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 06/11/2024

REQUESTER: Greg Clark, Development Services Manager

PRESENTER: Greg Clark, Development Services Manager

ITEM TITLE: CONSIDERATION OF ADOPTION, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF ORDINANCE O-2324-55 UPON SECOND AND FINAL READING: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTIONS 6-105 ("PERMIT FEE SCHEDULE") IN ARTICLE 6-I ("BUILDINGS AND BUILDING REGULATIONS IN GENERAL") AND 6-209 ("ADOPTION OF THE RESIDENTIAL CODE") IN ARTICLE 6-II ("CONSTRUCTION CODES"), BOTH IN CHAPTER 6 ("BUILDINGS AND BUILDING REGULATIONS") IN ORDER TO ESTABLISH AN ENERGY INCENTIVE PROGRAM FOR RESIDENCES ACHIEVING A HERS/ERI SCORE NO LESS THAN SEVEN (7) POINTS LOWER THAN THE RESIDENTIAL ENERGY CODE REQUIREMENT AS ADOPTED BY THE CITY OF NORMAN AT A GIVEN TIME; AND PROVIDING FOR THE SEVERABILITY THEREOF.

SH/EF 9/10

HISTORY OF THE HERS/ERI PROGRAM:

The Energy Codes Home Energy Rating System (HERS)/Energy Rating Index (ERI) program was developed to encourage energy efficient building practices for new, single-family residential development.

Under the program, a building's energy efficiency is measured on an index of zero (0), or no energy usage, to 100 with lower scores equating to a more energy efficient building. Based on the final HERS/ERI index rating, permitting fees are adjusted as an incentive. The current City of Norman building permit fee for a new single-family home is calculated at \$0.14/SF of underroof structure. The current HERS/ERI pilot program allows for building permit fee reduction of up to 50% for homes achieving an index score of 57, with an additional five-percent deduction for each point below this score. The actual cost savings varies based on the score and square footage of the project, but could potentially be zero dollars if the home achieved an HERS/ERI score of 47. The current fee reduction schedule is displayed in Table A.

Table A: HERS/ERI Program Fee Reduction Schedule

Score	Fee Reduction	Paid by Applicant
58 or above	None	100%
57	50%	50%
56	55%	45%
55	60%	40%
54	65%	35%
53	70%	30%
52	75%	25%
51	80%	20%
50	85%	15%
49	90%	10%
48	95%	5%
47 or less	100%	None

The HERS/ERI program is the result of coordination between local builders, stakeholders, and City Council on energy efficient construction.

Council approved Resolution R-1718-117 in May of 2018, establishing the procedure for obtaining a Permit Fee Adjustment incentive through the HERS/ERI program for homes scoring below a 65 on the index for an initial six (6) months. The program began in July of 2018 and was renewed for additional six (6) month time periods via Resolutions R-1819-61 (January 2019), R-1819-120 (June 2019), R-1920-75 (December 2019), and for a twelve (12) month period with the passage of Resolution R-1920-125 (June 2020). In June of 2021, Resolution R-2021-107 was approved by Council, amending the benchmark score from 65 to 51. In July of 2022, Council approved Resolution R-2122-137 updating the programs benchmark score from 51 to the current score of 57, and allowing for a 2-year program extension. The extension was intended to provide a window for additional data collection and allow for discussion and consideration of implementing a permanent HERS/ERI program within the City.

The program is set to expire June 30, 2024.

BUILDING PERMIT FEE ADJUSTMENT PROCESS:

The process for applying for an adjusted building permit fee begins with the applicant /builder enrolling in the program at the time of permit application.

Homes participating in the program are not required to initially pay the building permit fee portion of the permit. All remaining fees are paid at time of issuance.

Final building permit fee adjustments are based on the submission of a final HERS/ERI index score report and subsequent staff verification. Following staff review, the final total of the building permit fee is determined, and any outstanding fees owed to the City are required to be paid prior to the issuance of the final Certificate of Occupancy (CO).

CURRENT STATISTICS AND CODE ACTIVITY:

Effective September of 2022, the Oklahoma Uniform Building Code Commission (OUBCC), the State body that adopts minimum codes for jurisdictions in Oklahoma, updated the State's minimum energy code standard an ERI of 64. The most recent update to the City of Norman HERS/ERI program required a benchmark score of 57 to achieve a fee reduction. Staff contends that the lower score requirement is a notable improvement over the State requirement as it is the standard referenced in the 2018 International Energy Conservation Code (IECC).

Current data suggests the set standard is proving to be a challenging, but achievable, benchmark. Of the 1,050 homes enrolled in the HERS/ERI program to date, 54% have received full or partial credit. Approximately 35% of enrolled homes receive no credit under the program. Several homes participating in the most recent program benchmark have not yet filed for final permitting fees.

The current enrollment statistics and awarded credits, distributed by the benchmark score set forth by Council, are displayed in Table B.

Table B: Historical HERS/ERI Program Data

	Enrolled 7/18 to 7/22 Benchmark of 65	Enrolled 7/22 to 5/22 Benchmark 51	Enrolled 7/22 to 4/24 Benchmark 57*
Total Homes Enrolled	539	291	220
No Credits Awarded	139	209	19
Partial Credit Awarded	251	82	82
Full Credit Awarded	149	0	4
Average Credit	\$335	\$187	\$246
Total Credits Awarded	> \$133,922	> \$15,131	> \$21,193

*Note: 115 homes enrolled in the 7/22 to 4/24 have not yet filed for final permit fees.

RECOMMENDATION:

The benefits of adopting the program permanently are encouraging energy efficiency in residential homes, above and beyond State requirements, in line with the City’s assertion that there is strong public interest in reducing the consumption of finite natural resources, and providing a sense of predictability for to the development process. A static, reliable program will encourage building above code homes in Norman.

At the May 14, 2024 Study Session, Council was advised that if they desired to continue the HERS/ERI program it should be by adopting it permanently as an Ordinance. Adopting by ordinance will solidify programming and mitigate future conditions that would endanger the program’s continuance.

If adopted by Ordinance, Staff recommends the inclusion of a benchmark ERI with a set number of points below the currently adopted code as determined by the OUBCC. Based on past adoptions, Staff recommends the benchmark ERI be 7 points lower than the City’s adopted minimum score for ERI. As an example, if the City were to make the new minimum ERI a 60, the programs benchmark in the City of Norman would become a 53. This inclusion will allow the program to remain flexible as codes are updated, while ensuring continuous reward for homes build above minimum standards. For this code cycle the current benchmark ERI would remain at 57. Should the city update the Residential Energy Code, the new benchmark ERI will continue to be reflective of better energy efficiency.

After hearing the presentation and discussion, Council directed staff to move forward with preparing an ordinance for permanent adoption of the program based on these recommendations.

CC: Jane Hudson, Planning & Community Development Director
 Kathryn Walker, City Attorney
 Beth Muckala, City Attorney III

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTIONS 6-105 (“PERMIT FEE SCHEDULE”) IN ARTICLE 6-I (“BUILDINGS AND BUILDING REGULATIONS IN GENERAL”) AND 6-209 (“ADOPTION OF THE RESIDENTIAL CODE”) IN ARTICLE 6-II (“CONSTRUCTION CODES”), BOTH IN CHAPTER 6 (“BUILDINGS AND BUILDING REGULATIONS”) IN ORDER TO ESTABLISH AN ENERGY INCENTIVE PROGRAM FOR RESIDENCES ACHIEVING A HERS/ERI SCORE NO LESS THAN SEVEN (7) POINTS LOWER THAN THE RESIDENTIAL ENERGY CODE REQUIREMENT AS ADOPTED BY THE CITY OF NORMAN AT A GIVEN TIME; AND PROVIDING FOR THE SEVERABILITY THEREOF.

NOW BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

§ 1. THAT Section 6-105 of Chapter 6 of the Code of Ordinances of the City of Norman shall be amended to read as follows:

Sec. 6-105 – Permit Fee Schedule

All fees within subsections (a), (c), (d) and (e) of this section shall be doubled if the work is commenced before a permit is issued.

(a) The following building permit fees shall be charged, as provided in the city fee schedule:

* * *

(5) One- and two-family dwellings (including Accessory Dwelling Units), move-ins, and mobile homes, per square foot of project area, as subject to adjustment per any applicable incentive programs, including as set forth in NCC 6-209.

* * *

§ 2. THAT Section 6-209 of Chapter 6 of the Code of Ordinances of the City of Norman shall be amended to read as follows:

Sec. 6-209. – Adoption of the Residential Code

(a) Pursuant to 59 O.S. § 1000.23, the International Residential Code for One- and Two-Family Dwellings, 2018 edition, including appendix E, K and Q, as published by the International Code Council, Inc., including modifications by the Oklahoma Uniform Building Code Commission as set forth in title 748 of the Oklahoma Administrative Code, hereinafter referred to as "IRC," is hereby adopted as the residential code of the City for regulating construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal, and demolition; of detached one- and two-family dwellings, townhouses, manufactured homes, or accessory structures; not more than three stories in height with separate means of egress with the same force and effect as if fully set out in this section with amendments thereto as prescribed in this section.

* * *

(e) Incentive Programs Generally. The utilization of any incentive program requires the following: All utility accounts must be current, all building permits must be in a non-expired status, and all fees owed to the City of Norman must be paid or intent to pay must be demonstrated in writing.

(f) Energy Incentive Program: Those who intend in good faith intend to construct a new single-family home, two-family home, townhouse or Accessory Dwelling Units (“ADUs”), that will achieve a HERS/ERI score of at least seven (7) points lower than the Residential Energy Code requirement as adopted by the City of Norman at that time, can apply for a permit fee adjustment with respect to such home, subject to compliance as follows:

- (1) Enrollment into the program must occur prior to issuance of the building permit;
- (2) At permit issuance, the applicant will not be made responsible for building permit fees, as outlined in Appendix A, Chapter 6-105(a)(5) of the City of Norman Municipal Code;
- (3) Upon completion of construction and prior to the issuance of a Certificate of Occupancy (“CO”) or Temporary Certificate of Occupancy (“TCO”), a report reliably demonstrating compliance in accordance with the RESNET/ICC 301 Standard shall be submitted, for City review, by an approved third party qualified to conduct the certification and inspections and perform the required testing. When the report(s) indicate compliance with the standards herein, the applicant will be deemed to have satisfied 50% of the building permit fee identified in Appendix A, Chapter 6-105(a)(5) of the City of Norman Municipal Code. An additional 5% of this fee may be satisfied by each additional point lower of a HERS/ERI score, for a total of 100% satisfaction for any permitted structure achieving a HERS/ERI score of seventeen (17) points or lower than the current Residential Energy Code requirement as adopted by the City of Norman;
- (4) In all cases, application for a HERS/ERI Permit Fee Adjustment shall not prevent submittal of a fee adjustment application under another program in relation to the same structure, except that no applicant’s incentive program performance may be deemed to have satisfied more than the total Building Permit Fee as identified in Appendix A, Chapter 6-105(a) (5) of the City of Norman Municipal Code;
- (5) Prior to issuance of a CO or TCO, the applicant shall satisfy any remaining amounts owed of the building permit fee;
- (6) Reports demonstrating compliance must be submitted within eighteen (18) months of issuance of the applicable construction permit, or an extension to this submittal limitation may be requested by the applicant and granted at the discretion of the Building Official; and

(7) The City of Norman may refuse application and deny or charge back adjustments where the applicant failed to follow the procedure set forth herein.

* * *

§ 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

ADOPTED this 11th day
of June, 2024.

Larry Heikkila
Larry Heikkila, Mayor

NOT ADOPTED this _____ day
of _____, 2024.

Larry Heikkila, Mayor

ATTEST:
Brenda Hall
Brenda Hall, City Clerk



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